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Letter dated 27 December 2001 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Israel, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you would arrange for this letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

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Annex

[Original: English]

Letter dated 27 December 2001 from the Permanent Representative of Israel to the United Nations addressed to the Chairman of the Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

I have the honour to attach herewith the report of the Government of Israel submitted pursuant to paragraph 6 of Security Council resolution 1373 (2001) (see enclosure).

(*Signed*) Yehuda **Lancry**
Permanent Representative

Enclosure

State of Israel: report to the Counter-Terrorism Committee pursuant to paragraph 6 of Security Council resolution 1373 (2001) of 28 September 2001*

EXECUTIVE SUMMARY

In response to *Security Council Resolution 1373*, the State of Israel submits its Report regarding the steps that it has taken to combat terror and to comply with the Security Council Resolution.

The State of Israel has been threatened by terrorism since its independence. As a result, it has developed an extensive network of government authorities, a body of domestic legislation, a range of practical policies and an intense commitment to combat terrorism in all its aspects. The 1996 formation of the Bureau for Counter Terrorism within the Office of the Prime Minister, the establishment in December 2001 of the Department for Counter Terrorism in the Ministry of Foreign Affairs, Israel's continued efforts to engage dialogue and cooperation with other countries and the continued effort to improve an extensive body of legislation all emphasize that commitment.

General legislation on the matter of terrorism exists in the *Defence Regulations (State of Emergency)* (1945), the *Prevention of Terrorism Ordinance* (1948) and the *Penal Law* (1977). Beyond these laws, there are specific provisions relevant to the war on terrorism in other legislation, such as the *Firearms Law* (1949) and the *Air Navigation (Security in Civil Aviation) Law* (1977).

The ability to cooperate in with other States, in international efforts to bring terrorists to justice, is founded in the *Extradition Law* (1954).

Israel is acutely aware that the war on terror is dynamic, and that new tools must be consistently developed to combat the ever-increasing sophistication of terrorists and terror organizations, as well as to take account of newly available technologies. The fact that terrorism is increasingly global in scope and in its threats, creates a need to amplify the ability to cooperate internationally in the war on terrorism.

Consequently, Israel acts, together with other States, in cooperating, sharing knowledge, expertise and techniques in fighting terrorism. This continued sharing of information and experiences is vital due to the international nature of this challenge. Central to this effort are the obligations taken on by Israel with its neighbors as part of agreements between the sides. Domestically, Israel continually monitors the state of its legislation and, when the need arises, adopts new legislation intended to meet these challenges. Specific examples from recent years include:

- The *International Legal Assistance Law* (1998), which simplifies international cooperation in the investigation and prosecution of terrorists;
- The *Prohibition on Money Laundering Law* (2000) which criminalized various financial activities; and
- A recent (May 2001) and far-reaching amendment to the *Extradition Law* (1954), which generalized the definition of extraditable offences thus removing the need for specific inclusion of offences in the *Extradition Law* and greatly expands the authority of Israel to cooperate with other States in the areas of international crime and terror.

In light of the events of 11 September 2001 and the actions of the international community in adopting of *Resolution 1373*, Israel is further increasing its counter terrorism activity and reconsidering its stance on its

* The appendices to this document are on file with the Secretariat and are available for consultation.

existing framework for combating international terrorism and its position regarding a range of agreements and treaties. At the time of submission of this Report, new legislation is being considered in a number of spheres. A bill for the *Combating Organized Crime Law* would further criminalize activities of terrorist organizations, as well as streamlining international efforts to combat such activity Legislation regarding procedures for dealing with refugee requests is also being considered.

Israel also places great importance on participation in international instruments designed to combat terrorism. Israel has already signed and ratified a number of international conventions, and many of the remaining conventions have been signed and are in the process of ratification. During the course of the preparation of this Report, all internal formalities for the ratification of a further Convention, the *Convention on Physical Protection of Nuclear Material*, were completed, culminating in the government's decision to ratify earlier this week.

In summary, although Israel already possesses many legal and administrative tools for the war on terrorism, it remains committed to the effort to improve and expand these tools, both in domestic legislation and through international instruments. Israel has been a leader in the counter-terrorism effort and is committed to sharing and working with other states in order to assist the international effort against the scourge of terror.

INTRODUCTION

In the past three months, since the unanimous adoption of *Security Council Resolution 1373*, the State of Israel has continued to suffer the ravages of terror attacks. These attacks have included the shooting of civilians, suicide bombings of public buses and city centers and the launching of missiles at communities. 66 men, women and children have been killed and literally hundreds wounded in the days and weeks after the adoption of this statement affirming the resolve of the international community against terrorism. This state of affairs is not new for the people of Israel. Since the founding of the State of Israel in 1948, its citizens have found themselves having to live their lives, to go to school and to work and to raise families in the shadow of terror.

Israel strongly supports the vital steps mandated by *Resolution 1373*. This statement by the international community places obligations upon all member states of the United Nations. It presents the essence of the common cause against all international terrorists, against all acts of terror and all of those who support these actions. This joint action will emphasize that there can be no differentiation between terrorists or explanations for any such attacks against innocent civilians.

Israel warmly welcomes the initiative of the Security Council to establish the Counter Terrorism Committee. Israel hopes that this Committee will be able to play a key role in helping States develop counter-terrorism capabilities and to encourage States towards fulfilling their obligations in accordance with *Resolution 1373*. It is in this spirit that Israel submits the enclosed documentation regarding its efforts in the fight against terror.

Israel has initiated over recent years unique branches of government to emphasize Israel's practical concerns on the subject of terrorism. It has also reemphasized practical cooperation with other states on the issue of counter terrorism. The events of 11 September 2001 and the actions of the international community in adopting of *Resolution 1373*, have served as an impetus for Israel to further increase its counter terrorism activity and to reconsider its stance on its existing framework for combating international terrorism and its position regarding a range of agreements and treaties. Israel sees this submission as a starting point in Israel's efforts to coordinate its improvement and cooperation in combating terrorism. Israel's recent adoption of domestic legislation against money laundering serves as an example of this commitment.

Israel has been a leader in the counter-terrorism effort and is committed to sharing and working with other states in order to assist the international effort against the scourge of terror. Israel hopes that its efforts and experiences will be of value to other States and at the same time that it will be able to learn from the knowledge and expertise of others in our shared challenge of combating international terrorism.

I. UNSCR 1373 Operative Paragraph 1

a. What measures if any have been taken to prevent and suppress the financing of terrorist acts in addition to those listed in your responses to questions on 1(b) to (d)?

In the weeks since the unanimous approval of Resolution 1373, Israel has taken a number of steps on the matter of preventing and suppressing the financing of terrorist acts. Some of those steps include:

- *Cabinet Decision 815* (21 October 2001) authorized cooperation with the United States in the area of financing terrorist acts. Specifically, the *Cabinet Decision* called for bilateral assistance in practical actions connected with *Executive Order 13224* (23 September 2001) regarding the freezing of assets of individuals, groups and entities linked to terrorist acts or supporting terrorism. This *Cabinet Decision* instructed Israel's Justice Minister to examine whether current legislation would allow such cooperation. If not, the Justice Minister is mandated to promote any necessary new legislation on this matter.

- A complete examination of Israeli bank accounts to cross-match names of individuals and organizations on lists provided by the United States and by counter-terrorism bodies in Israel.

- Israel responded to a questionnaire presented by the United States regarding the financial status of terrorist organizations in Israel.

- The Government of Israel appointed the first director-general of the Authority for Prevention of Money Laundering.

b. What are the offences and penalties in your country with respect to the activities listed in this sub-paragraph?

The relevant provisions of Israeli law are sections 4(d), 4(e), and 4(f) of the *Prevention of Terrorism Ordinance* (1948), section 148 of the *Penal Law* (1977) and the *Defence Regulations (State of Emergency)* (1945).

1. *Prevention of Terrorism Ordinance* (1948)

- Section 4(d) of the *Prevention of Terrorism Ordinance* provides that a person who gives money or moneys worth for the benefit of a terrorist organization is guilty of a crime and is liable to be imprisoned for a term not exceeding three years and/or a fine currently, pursuant to Section 61(3) of the *Penal Law*, up to 49,800 NIS (approximately U.S. $11,580).

- Sections 4(e) and (f) of the *Prevention of Terrorism Ordinance* establish as an offence punishable by three years in prison, the provision of a location or an article to a terrorist organization for its use:
  4. (e) a person who...puts a place at the disposal of anyone in order that that place may serve a terrorist organization or a member of a terrorist organization or its members, regularly or one particular occasion, as a place of action, meeting, propaganda or storage; or
  (f) puts an article at the disposal of anyone in order that article may serve a terrorist organization or a member of a terrorist organization in carrying out an act on behalf of the terrorist organization.

2. *Penal Law* (1977)

- Section 148 of the *Penal Law* establishes as a criminal offence punishable by six months imprisonment, the payment of membership dues to an unlawful organization, as defined in that law.

Under the general provisions of the *Penal Law*, the terms of this legislation apply to a citizen or resident of Israel who commits offences outside Israeli territory, or offences which were only partially committed within the territory of the state. It should be noted that the application of this article is limited to those cases in which the offender has not been tried in another country, and that this section can only be implemented when a number of conditions are satisfied, significantly that the act was also an offence in the country in which it was committed.

3. ***Defence Regulations (State of Emergency)*** **(1945)**

- Regulation 85(1)(8) establishes as an offence, fundraising for an unlawful association.

c. What legislation and procedures exist for freezing accounts and assets at banks and financial institutions?

The following sources of authority for freezing or confiscating the assets of terrorist organizations exist under Israeli law:

1. ***Prevention of Terrorism Ordinance*** **(1948)**

Under Section 5 of the *Prevention of Terrorism Ordinance* any property of a terrorist organization shall be confiscated. Section 5 also provides that the appropriate judicial body to authorize the confiscation of terrorist property is the District Court. Property which is liable to be confiscated may be subject to an attachment order by decision of the Inspector General of the Police. It should be noted that Section 5 provides for an evidentiary presumption that property located on the premises of a terrorist organization is the property of a terrorist organization.

2. ***Defence Regulations (State of Emergency)*** **(1945)**

An alternative basis for the confiscation of property is the *Defence Regulations (State of Emergency)* (1945). Regulation 84(2)(a) provides that, upon the declaration by the Minister of Defence that an organization is an "unlawful association", a person in possession of property, an account, or a deposit of the association must notify the Minister of Finance within 48 hours. The Minister of Finance is authorized, under subsection (b) to confiscate such property.

Regulation 84(2)(d) grants authority to enter into premises in which there is cause to believe that there is such property or documents relating to such property, and to confiscate them. Regulation 74 grants authority to seize such property or documents.

3. ***Criminal Procedure Ordinance (Search and Seizure) [New Version]*** **(1969)**

Pursuant to Section 32 of the *Ordinance*, the police is authorized to seize an item if it has cause to believe that the item was used or about to be used for the commission of an offence, or that it is likely to serve as evidence in a legal proceeding relating to an offence, or that it was given as payment for the commission of an offence or as a means of committing it.

This item (which could include money) can be held by the police and if an indictment is not filed regarding the relevant offence within six months, it must be returned. Alternatively a court order may be obtained pursuant to section 34 of the *Ordinance*, regarding the disposition of the item.

4. *Prohibition of Money Laundering Law* (2000)

Israel's recent legislation on the issue of money laundering provides substantial tools to confiscate the funds of terrorist organizations.

Chapter 6 of the *Legal Assistance Between States Law* (1998), enables an Order of Confiscation issued by another State concerning property in Israel to be enforceable (after application for a court order in Israel) for offences of money laundering. Therefore, the actions noted below – freeze, criminal and civil confiscation of assets in Israel – may be carried out at the request of a foreign State.

i. Freezing of the situation before the beginning of legal proceedings

Section 23 of the *Prohibition of Money Laundering Law* applies the provisions of Sections 33(c) – 33(j) of the *Dangerous Drugs Ordinance [New Version]* (1973), to the confiscation of property according to this Law. Therefore, according to the provisions of section 33(f)(b), the District Courts are empowered to issue a provisional order even before an indictment. This order may be issued *ex parte*, if there is the danger of immediate disappearance of the property.

After indictment, or after the submission of a request for civil confiscation, the Court may issue a provisional order to ensure the confiscation after a potential conviction or decision to confiscate.

ii. Confiscation in a criminal proceeding

Section 21 of the *Prohibition of Money Laundering Law* establishes a mechanism of confiscation by the Court in the case where a person is convicted of an offence of money laundering or activity with forbidden property.

The Law permits confiscation of property equal in value to that of the property with which an offence was committed or which served in the commission of an offence, or which was obtained in payment for commission of an offence.

Property of a third party may also be confiscated, if the convicted defendant financed its acquisition or transferred it without payment (the affected party is given the right to present relevant claims). Therefore, an individual who made a donation to a terrorist organization and was convicted thereof according to section 4 of the Law would be required to pay a sum equal to the amount of the donation.

According to Section 21, in the case of conviction in accordance with Sections 3-4, the property will be, as a rule, confiscated, and the decision not to confiscate such property may be made only in extraordinary circumstances which must be noted in the Court's decision.

iii. Confiscation of property in a civil proceeding

Section 22 of the *Prohibition of Money Laundering Law* allows confiscation of property in a civil proceeding, in those cases where an offence was committed under Section 3-4 but where for some reason indictment is impossible (for example, the accused is not in Israel or cannot be found, or the property was located after a conviction). The District Court is empowered to order the civil confiscation of such property.

Property held by a third party may also be confiscated, but only in cases where the possessor knew or agreed that the property be used for the commission of an offence, or where his right in the property was acquired without compensation or not innocently. In this case as well, the third party is entitled to present a relevant claim.

iv. Seizure of funds as a result of non-reporting of entry or exit

Section 9 of the *Prohibition of Money Laundering Law* requires that the transfer of sums greater than 80,000 NIS (approximately U.S. $18,600) in or out of Israel be reported. Section 10 establishes an offence of non-reporting. Section 11 permits a police or customs officer to seize funds above this sum that were not reported as required. If the suspect is not indicted under this section within 10 days, the funds must be returned to the individual from whom they were seized.

Where the suspect is indicted for non-reporting, the provisions of the *Criminal Procedure Ordinance (Search and Arrest) [New Version]* (1969), permit the possibility of extending the period of seizure by Court Order, and empowers the Court to determine the manner of disposal of the funds at the end of proceedings.

d. What measures exist to prohibit the activities listed in this sub-paragraph?

In addition to the legislation outlined in paragraph (c) above, the holding of financial assets associated with terrorist organizations is prohibited by the provisions of the *Prohibition on Money Laundering Law* (2000). Offences in this regard include those relating to funds resulting from or involved in the commission of certain offences, including offences related to terrorism.

In particular, the law:

- Requires providers of financial services (banks, portfolio managers, stock exchange member, etc.) to report suspicious transfers of funds, and establishes sanctions to enforce these requirements.

- Requires reporting on the movement of cash, traveler's checks and bank drafts into and out of the territory of the State of Israel.

- Allows confiscation of funds, both ancillary to criminal proceedings or in separate civil proceedings in those cases where a criminal proceeding is not possible.

- Establishes a statutory authority to operate a data bank of that information relevant to the execution of the Law. The Law establishes that this authority will view as an offence offences committed in another State provided that it is an offence also under that State's laws. As a result, even if the original offence, which caused the funds to be seen as "forbidden funds" in accordance with the Law, was committed outside Israel, the Law would apply.

Since possession of forbidden property would be considered "activity in forbidden property" under the Law, the act of possession of funds received in donation to a terror organization is an offence under sections 3-4 of the Law. For example, donations to a terrorist organization are an offence, *inter alia* under Section 4(d) of the *Prevention of Terrorism Ordinance* (1948), and therefore these funds are "forbidden property" under section 3 of the Law. Section 1 determines that this act of possession may be punishable by up to seven years imprisonment when the possessor knew of the nature of the funds.

II. UNSCR 1373 Operative Paragraph 2

a. What legislation or other measures are in place to give effect to this sub-paragraph? In particular, what offences in your country prohibit (i) recruitment to terrorist groups and (ii) the supply of weapons to terrorists? What other measures help prevent such activities?

1. Recruitment of new members

The recruitment of members to a terrorist organization is an offence under Regulation 85(1)(i) of the *Defence Regulations (State of Emergency)* (1945), which establishes as an offence, punishable by 10 years imprisonment:

> 85. (1) any person who
>
> ...by writing, words, signs, or other acts or representation, directly or indirectly, whether by inference, suggestion, implication, or otherwise, acts on behalf of, or as a representative of an unlawful organization...

A significant method for the recruiting of new members to terrorist organizations is via incitement and propaganda. Israeli law establishes a number of offences in this regard:

- Section 2 of the *Prevention of Terrorism Ordinance* (1948) provides that a person delivering a propaganda speech at a public meeting or over the airwaves on behalf of a terrorist organization shall be liable for a felony. Conviction herein carries a prison term not exceeding twenty years.

- Section 4(a) and (b) of the *Prevention of Terrorism Ordinance* (1948) provides that a person who publishes, in writing or orally, words of praise, sympathy, or encouragement for acts of violence calculated to cause death of injury to a person or threats of such acts of violence or publishes words of praise or sympathy for or an appeal for aid or support for a terrorist organizatio would be liable on conviction to imprisonment for a term not exceeding three years, to a fine currently standing at 49,800 NIS (approximately U.S. $11,580) or to both such penalties.

- The holding of propaganda material for the benefit of a terrorist organization is similarly an offence punishable by three years in prison or a fine currently standing at 49,800 NIS (approximately U.S. $11,580).

- Section 4(c) of the *Prevention of Terrorism Ordinance* provides that a person who possesses propaganda material for the benefit of a terrorist organization shall be guilty of an offence.

2. Prevention of the supply of weapons

The relevant legislation regarding the supply of weapons is the *Firearms Law* (1949). A permit is required in order to manufacture, import or export firearms. Similarly, a permit is required to bear arms. Failure to comply with these provisions, which are intended, *inter alia*, to prevent terrorist organizations from acquiring weapons, is a criminal offence. The *Explosive Material Law*, 1954 contains similar regulations regarding explosive materials.

Regulation 59 of the *Defence Regulations (State of Emergency)* (1945) also establishes certain restrictions in this regard. Section 144 of the *Penal Law* also establishes offences in relation to unlawful weapons.

In accordance with *Government Decisions 411* (1974) and *190b* (1999) the Border Team of the Bomb Unit of the Israel Police is responsible for the prevention of the entry of weapons and ammunition throughout the border points into Israel. This unit provides professional guidance to various public and private authorities. The Israel Police is responsible for the prevention of illegal entry of weapons via border crossings by use of land, sea and the post.

b. What other steps are being taken to prevent the commission of terrorist acts, and in particular, what early warning mechanisms exist to allow exchange of information with other states?

Throughout the 53 years since its founding, the State of Israel has been forced by circumstances to take an active role in terms of practical measures to prevent the commission of terrorist acts and to develop a range of internal and shared early warning mechanisms. It has also regularly cooperated, both in the region and with other similarly interested states to exchange information regarding terrorist activity.

The following are some examples of such proactive actions that Israel has taken:

- In 1996, Israel formed a Bureau for Counter Terrorism within the National Security Council of the Office of the Prime Minister. This branch coordinates information and makes policy proposals in the area of counter terrorism. It is responsible for proposing and carrying out international cooperation including the identification of areas of interest and concern to Israel and to other countries.

- On 4 October 2001, the Minister of Defence declared el-Qaida an unlawful association. For further details about the subject of "unlawful associations" see Section II (e) herein.

- In December 2001 Israel's Ministry of Foreign Affairs created the Division for Strategic Affairs. This Division includes the Department for Counter Terrorism which was specifically formed to respond to the new concerns in the areas of terrorism and the threats of non-conventional weapons. The division will interact on these subjects domestically and in global for a and will avail itself of the diplomatic resources of the Ministry of Foreign Affairs to meet the challenges following the attacks of 11 September 2001.

- In April 2000, Israeli authorities arrested a Palestinian man who is alleged to be a member of the el-Qaida network. This individual attempted to cross into Israel via the Rafiah crossing point along the Egyptian border in order to establish an el-Qaida cell in Israel. An indictment has been served in this case.

- Israel conducts regular dialogues on the issue of counter terrorism and the exchange of information with a large range of countries. In recent months such dialogues have taken place with the United States, India and the European Union.

- Israel has recommended Mr. Benjamin Rubin to the Counter Terrorism Committee as an expert in the field of counter terrorism legislation. It is also examining the possibility of making additional recommendations of Israeli experts to offer assistance to the work of the Committee.

c. What legislation or procedures exist for denying safe haven to terrorists, such as laws for excluding or expelling the types of individuals referred to in this sub-paragraph?

1. Domestic Legislation

During the last three years, Israel has undertaken a comprehensive revision of its legislation regarding extradition and international legal assistance. These laws augment Israel's ability to provide assistance to other states in the investigation and prosecution of serious crimes. These legislative changes include a major revision of the *Extradition Law* (1954) which was approved by the Knesset (Israel's Parliament) in May, 2001. These legislative enactments and amendments will greatly contribute to Israel's ability to contribute to the international cooperative effort to combat terrorism.

2001 Amendment of the *Extradition Law*

Israel's recent amendment of its Extradition Law (hereinafter: "the 2001 Amendment"), allows authorities wide latitude to prevent the use of Israel as a safe haven to criminals, including terrorists. Some relevant aspects of the 2001 Amendment include:

- The definition of "extraditable offences" has now been extended to render every offence punishable by "one or more years imprisonment" an extraditable offence. Previously only offences punishable by more than three years imprisonment were considered extraditable unless they were included on a specific list of extraditable offences. The new definition allows for a greater flexibility in ensuring that offences will be extraditable. Another amendment provides that where an extraditable offence exists, extradition will also be permitted regarding connected offences even if the additional offences would not have been extraditable in themselves. This provides an important function in ensuring that no fugitive fleeing to Israel could benefit through a reduction of the offences for which prosecution is permissible following extradition.

- The criteria for the extradition of Israeli citizens for offences committed abroad have been broadened. Under the 2001 Amendment, an Israeli citizen may be extradited to stand trial in the requesting state for offences committed there. Where the requested suspect possessed both Israeli citizenship and domicile at the time of the offence, the extradition will be conditioned upon an guarantee that, if convicted, the Israeli national would be permitted to serve the sentence in Israel. Such guarantees are provided in the framework of treaties such as the *European Treaty on the Transfer of Sentenced Persons*, bilateral agreements or via ad-hoc arrangements to which Israel is a Party. The amendment is designed to ensure that Israel will not be accessible as a safe haven for international criminals, including those whose offences may have contributed to international terrorist activities.

- Israeli law has always required that extradition may only take place pursuant to an extradition treaty or agreement between Israel and the requesting state. The 2001 Amendment is designed to ensure that this requirement does not limit flexibility Israel may require in order to permit extradition in cases of serious crimes including terrorist activities. The 2001 Amendment defines an "extradition agreement" to include not only bilateral and multilateral extradition treaties but also "an agreement or treaty which is not particular to the extradition of criminals, but which includes provisions in this regard". In this regard, Israel has signed a number of treaties specifically designed to deter and punish terrorists. These treaties include extradition provisions. Thus, Israel is now able to extradite (and request the extradition of) terrorists from states even if it could not extradite to those states for non-terrorism related crimes.

- Extradition may be effected to designated international tribunals. Currently, designated tribunals include the tribunals set up under Security Council resolutions related to Rwanda and the Former Yugoslavia. Future tribunals to be established to deal with terrorist crimes could be added to the list of designated international tribunals.

- While extradition may be denied where extradition is sought for "political offences", the 2001 Amendment specifically excludes from the definition of "political offences" a wide variety of offences of the sort that commonly typify terrorist activity including, "killing, or the causing of grave bodily injury", "the taking of hostages", "preparation or possession of weapons, explosives or destructive materials" and "the use of [such weapons or materials] to endanger life or cause serious damage to property". Conspiracy to commit such offences is also not considered a political offence under Israeli law. The law now emphasizes that no political agenda or ideology may provide a shield to an individual who commits heinous crimes of this nature.

- Of specific significance in the area of terrorism, the 2001 Amendment also excludes from the political offence protections, any offence for which Israel and the requesting state are "obligated to extradite under

a multilateral treaty." As the war against terrorism increasingly becomes the subject of multilateral conventions, this provision will assure that such international crimes will not constitute political offences under Israeli law.

- The 2001 Amendment generally streamlines and modernizes the procedures and proceedings relating to extradition to make it an effective tool against transnational crime.

In conclusion, the 2001 Amendment provides Israel with an effective and flexible mechanism to respond to requests for extradition in the case of international crime while still safeguarding the legitimate procedural and substantive rights of its citizens and of other persons whose extradition has been sought. Many of the provisions of the 2001 Amendment provide a basis for extended cooperation with respect to a full range of crimes and not exclusively to terrorist crimes.

Prohibition on Money Laundering Law (2000)

An additional new piece of legislation recently approved by Israel's Knesset is the *Prohibition on Money Laundering Law* (2000). Prior to the enactment of this law, money launderers were protected to a great extent from extradition due to the lack of "double criminality", as Israel could not extradite suspects for actions that would not have constituted crimes in Israel. The *Prohibition on Money Laundering Law* assures that this lacuna has been closed.

Extraterritorial Jurisdiction

As noted above, following the 2001 Amendment to the *Extradition Law*, Israel has the legal authority to extradite all persons, irrespective of their citizenship, to stand trial. It also has the authority to try persons in Israel for serious crimes committed outside of Israel's borders. Thus, even when extradition may not be possible, Israel could apply the international principle of *aut dedire aut punire* to try and punish terrorist offenders in its own courts. Israel could indict and punish the commission of terrorist crimes outside of Israel in the following situations:

(a) Where the accused was an Israeli citizen or resident when he committed the crime (Section 15 of the *Penal Law* (1977));

(b) Where Israel is a party to an international agreement to punish offenders for such crimes (Section 16 of the *Penal Law*). Israel is a party to a number of anti-terrorism treaties. Section 16 of the *Penal Law* allows Israel to indict and punish persons who have committed offences covered in these treaties without regard to where the offence was committed or the nationality or residency of the offender;

(c) Under certain other conditions, where the accused is now an Israeli resident, is physically in Israel and Israel has undertaken, pursuant to a treaty and reciprocity, to apply its laws to a person committing an offence abroad. (Section 17 of the *Penal Law*).

2. International Treaties and Conventions

Israel has sought to increase its ability to offer and receive effective cooperation in the area of extradition in terrorist cases both through its accession to treaties and conventions specifically dealing with terrorism and through efforts to extend the scope of its present general extradition treaties and agreements. Extending the scope of these treaties and agreements would be useful in rendering them more effective instruments for combating both international crime and terrorist activity.

Existing Extradition Treaties

Israel has been a Party to the *European Convention on Extradition* since 1967. While it has signed the *Terrorist Bombings* and *Financing of Terrorism* Treaties, it has not yet ratified these treaties. Nevertheless, under its existing extradition treaties, Israel has the ability to extradite for most terrorist offences. Moreover, Israel is currently endeavoring to extend the scope of its bilateral extradition agreements so as to greatly ease the procedural prerequisites for extradition. Specifically, where an extradition treaty provides for a schedule of specific listed offences for which extradition would be allowed, Israel is seeking to replace such list with a broad provision allowing extradition for all offences punishable by at least one year imprisonment. The older "list of offences" treaties pose particular difficulties regarding extradition for many terrorism related offences because the lists often do not specifically include offences under anti-terrorism legislation. This is the case, for example, with Israel's present Extradition Treaty with the United States.

d. What legislation or procedures exist to prevent terrorists from acting from your territory against other states or citizens?

The issue is covered by the following provisions of the *Penal Law*, 1977

- Section 145 defines an "unlawful association" as an association which incites to subversion or to bring down, by force or violence, the lawful government of Israel or of another country".

- Section 146 establishes as an offence punishable by three years imprisonment, incitement or encouragement to perform any of the above acts.

- Section 147 establishes as an offence punishable by one year imprisonment, membership in a prohibited association.

- Section 165 establishes as an offence punishable by 10 years imprisonment the attempt to destroy the political order of another state. Incitement to hostilities against a friendly state is an offence punishable by three years imprisonment (Section 166).

- Section 499 provides that conspiracy to commit a felony or misdemeanor is an offence. For our purposes, this section would apply even if the conspiracy is to commit the offence outside the territory of Israel.

e. What steps have been taken to establish terrorist acts as serious criminal offences and to ensure that the punishment reflects the seriousness of such terrorist acts?

In addition to legislative provisions already outlined, terrorist acts are defined as criminal offences in the following laws:

***Prevention of Terrorism Ordinance* (1948)**

- Section 2 of the *Prevention of Terrorism Ordinance*, entitled "Activity in a terrorist organization" provides that a person performing a function in the management or instruction of a terrorist organization or participating in the deliberations or the decision making process of a terrorist organization or acting as a member of a tribunal of a terrorist organization shall be liable on conviction to imprisonment for a maximum twenty year sentence.

- According to Section 3 of the *Ordinance*, membership in a terrorist organization, even if not accompanied by active participation, is an offence punishable by five years imprisonment. Membership in a terrorist organization can be proved by means of two evidentiary presumptions established in section

9 of the *Ordinance*. First, if the person was a member of a terrorist organization at any time, this creates a presumption that the person is currently a member of that terrorist organization. Second, a person in the place where a terrorist organization is meeting, is presumed to be a member of that organization, unless the opposite is proven.

- A public act of identification with or support for a terrorist organization, is an offence punishable by three years imprisonment, according to section 4(g) of the *Ordinance*.

- Sections 7, 8 and 11 of the *Ordinance* establish a number of evidentiary presumptions indicating that an organization is a terrorist organization:

  (a) If acts of violence were committed on behalf of that organization.
  (b) If the organization or someone on its behalf took responsibility for the commission of such acts of violence.
  (c) If the Government declared by notice in the Official Gazette that the organization is a terrorist organization.
  (d) If a court judgement determined that a particular group of individuals are terrorists.

An additional evidentiary presumption, relevant both with regard cases brought against members of terrorist organization, and in relation to confiscation of the property of a terrorist organization, is established in Section 10 of the Ordinance, according to which any matter which appears from its contents to have been published by a terrorist organization or on its behalf, can be assumed to be evidence of the facts presented in it.

***Defence Regulations (State of Emergency)* (1945)**

Regulation 85 establishes a number of offences relating to unlawful associations, including membership, holding an office, performing services, attending meetings, providing a place for meeting to be held, possessing propaganda or acting as a representative of such an organization.

***Penal Law* (1977)**

Section 145 of the *Penal Law* defines an "unlawful association" and establishes offences of advocating unlawful association (Section 146), membership in an unlawful association (Section 147), contributions to an unlawful association (Section 148), and publication of writings of an unlawful association (Section 149).

Additionally, the standard provisions of the *Penal Law* also apply to acts of terrorism. Among the most relevant in this regard include causing death (Article 1 of chapter 10); harm with aggravating intent (Section 329); and unlawful military exercises (Section 143).

Aviation Laws

Section 14 of the *Air Navigation (Security in Civil Aviation) Law* (1977) establishes as an offence punishable by three years imprisonment, the carrying of arms or explosives in an aircraft or airport. This provision applies to all aircraft in Israel and to Israeli aircraft abroad.

Section 17 of the *Aviation (Offences and Jurisdiction) Law* (1971), deals with the offence of hijacking an aircraft. The Section provides that seizing of an aircraft by force, violence, fraud or threat to use force or violence, or unlawfully taking control of an aircraft, possessing an aircraft or participates in the operation of an aircraft, in his control or possession, knowing that the aircraft was seized or had control taken over it or that it is being used to operate the controls of another aircraft which was seized or had control taken over it is an offence punishable by life imprisonment.

Proposed bill for fighting criminal organizations

Israel's Ministry of Justice is currently in the advanced stages of developing a bill dealing with criminal organizations. This proposed legislation would define criminal organizations, and provides that it makes no difference whether its meetings take place in Israel or in another country, as long as they are also offences according the laws of that country. Thus, the sanctions of the law might be imposed against a terrorist organization whose aim is to commit terrorist acts outside Israel. The bill also defines members of a criminal organization.

According to the proposed bill, a terrorist organization would be considered a criminal organization, and thus criminalizes that status as a "person active in a criminal organization". Such activity would be an offence punishable by 10 years imprisonment. Additionally, the commission of an offence within the framework of a criminal organization would be considered to be an aggravating circumstance, for which the punishment to which the offender is liable is doubled.

The proposed bill also includes sanctions such as confiscation in criminal proceedings.

Offences of attempt and assistance

Finally, all offences referred to above are also, of course, subject to the additional application of the offences of attempt and assistance.

Attempt: Under section 34(d) of the *Penal Law*, the punishment for the attempt to commit an offence is equal to the punishment for the commission of the offence itself.

Assistance: Under section 32 of the *Penal Law*, the punishment for assisting in the commission of an offence is one half of the punishment for the main offence.

f. What procedures and mechanisms are in place to assist other states?

In 1998, Israel's Knesset introduced a comprehensive and detailed new law regulating legal assistance to other states. The *International Legal Assistance Law* (1998) (hereinafter: "the *Legal Assistance Law*") allows Israel to offer full and effective cooperation to authorities in foreign states investigating or prosecuting crimes while still protecting rights of individuals. The *Legal Assistance Law* specifically relates to many forms of legal assistance, including taking testimony, search and seizure operations and authentication of documents. The Law essentially permits all actions relating to the investigation or prosecution of offences. The basic principle of the statute is contained in Section 8 of the *Legal Assistance Law*. This Section provides that any action requested by a foreign state may be performed to the same extent that such act could have been performed had the crime involved occurred in Israel and shall be performed in the manner requested if the request does not violate Israeli law. This allows for a full range of legal assistance similar to that which is available in a domestic criminal matter.

Among the forms of assistance recognized under the *Legal Assistance Law* is assistance in the enforcement of foreign forfeiture orders. Such forfeiture is allowable for designated categories of offences. Although the *Legal Assistance Law* originally only applied forfeiture to drug crimes, forfeiture for money laundering was added to the list of designated offences in 2000. Because terrorist crimes are included among the offences included within the *Prohibition on Money Laundering Law*, this renders Israel able to assist in the forfeiture of funds connected with money laundering connected to terrorism. Moreover, in light of the international anti-terrorism campaign following the tragic events of 11 September 2001, Israel intends to specifically add terrorist crimes to the list of designated offences with respect to which Israel may enforce foreign forfeiture orders.

Unlike extradition, legal assistance does not require specific bilateral or multilateral treaty. Thus, Israel can and does grant assistance to countries with which it does not share a treaty.

The authority which receives requests on behalf of Israel is the Office of Court Administration of the Ministry of Justice. The department that issues such requests on Israel's behalf is the Department of International Affairs of the Ministry of Justice. This Department may also be consulted on questions arising from Israel's execution of foreign requests.

Israel's current legislative and regulatory framework allow it to provide full and comprehensive legal assistance to combat international crime, including, in particular, the scourge of international terrorism.

Legal assistance, as effected within the framework of Israel's treaty arrangements, is detailed in Operative paragraph 3, sub-paragraph (3) below.

g. How do border controls in your country prevent the movement of terrorists? How do your procedures for issuance of identity papers and travel documents support this? What measures exist to prevent their forgery etc.?

Israel's experience and policies in the area of border control and concern in the area of movement of terrorism have been extensive over the years due to an acute awareness of the security threats which exist in this area. Nevertheless, the events of 11 September 2001 have caused Israeli authorities to increase their vigilance and consider new solutions in these matters. Some recent actions that have been taken include:

- Israel has introduced a new visa which includes additional protections against forgery and misuse.
- Identification kits have been distributed to Israeli Authorities at border points, Embassies and Consulates to promote awareness as to proper documentation procedures and methods of identification. The kits also increase the capability to identified falsified travel documents.
- Israel is in the process of developing a new passport in consultation with other states. This new passport will offer additional protections against forgery and misuse.
- Israel is examining advanced biometric identification technologies in order to continue to improve its capabilities regarding issuance, protection and identification of travel documentation.

III. UNSCR 1373 Operative Paragraph 3

a. What steps have been taken to intensify and accelerate the exchange of operational information in the areas indicated in this sub-paragraph?

Israel is active in international fora dealing on an operational level with the threats of terrorism and supports international conventions combatting terrorism as well as international efforts to publish lists of organizations supporting terrorism.

On a bilateral level, Israel cooperates with a range of countries which possess the interest, expertise and capability to combat terrorism. In recent months, formal dialogues have taken place with officials from the United States, India and the European Union. Israel has also sponsored and coordinated an anti-terrorism course for officials from the Philippines.

Israel shares the view as to the importance of taking such actions regardless of the identity of perpetrators or their motives. Areas of cooperation include identification of threats, taking preventative measures and coordination of legal activities and legislation related to the war on terrorism.

b. What steps have been taken to exchange information and cooperate in the areas indicated in this sub-paragraph?

The Israel Police is involved in exchanges of police information on a regular basis.

The Israel Police's Crime Scene Laboratory regularly cooperates, on an *ad hoc* basis, with international partners. Some areas of cooperation include characterization and analysis of terror crime scenes, sharing scientific and operational experience, personnel development and periodic dialogues. Some main areas of activity for the CSL include the discovery and identification of explosives (before and especially after explosions), examination of documents and identification (including at border crossings), development of field kits, processing fingerprints and ballistic examinations.

The Israel Police's Explosives Department cooperates internationally in the fields of post-blast investigation, exchange of technical reports concerning terror attacks, instruction in anti-explosive techniques, participates in international conferences on the subject, and regularly responds to specific inquiries.

Israel is a member of Interpol and cooperates closely with the 178 members of the organization. For example, Israel was called upon to investigate certain individuals in order to clarify whether or not the crash of a Russian aircraft during October 2001 was a result of terrorism activity.

c. What steps have been taken to cooperate in the areas indicated in this sub-paragraph?

Cooperation in the fight against terrorism has been a crucial element in Israel's bilateral agreements with its neighbors.

Israel-Egypt *Treaty of Peace*, 1979

Article III (2) requires each party to ensure that acts of hostility or violence do not originate from its territory and to ensure that perpetrators of such acts are brought to justice. Annex I, Article VII provides for the establishment of a liaison system between the parties as well as a direct telephone link in order to deal with any security issues which arise.

Israel-Jordan *Treaty of Peace*, 1994

Article 4 of the *Treaty* contains extensive undertakings by the two sides in the field of security. In the sphere of combating terrorism, Article 4 (5) requires both parties take necessary and effective measures and to cooperate in combating terrorism of all kinds. In particular, the parties undertake to prevent the entry, presence and operation in their territory of any terrorist group or organization and to cooperate in preventing and combating cross-boundary infiltrations.

Article 4 also establishes a liaison mechanism for the purposes of security cooperation.

This mechanism was most recently used in the past week, when, following a terrorist infiltration across the Israel-Jordan border, Israeli security personnel were permitted entry into Jordanian territory to combat the terrorist activity.

Israeli-Palestinian Agreements 1993-2000

The need to combat terrorism has been a fundamental and recurrent theme in the Israeli-Palestinian agreements. These agreements set out both mutual obligations of both sides in the fight against terrorism and specific undertakings of the Palestinian side to prevent terrorist acts and incitement. Among the key obligations in this regard are the following:

Exchange of Letters between Chairman Arafat and Prime Minister Yitzhak Rabin, September 1993:

The PLO renounces the use of terrorism and other acts of violence and will assume responsibility over all PLO elements and personnel in order to assure their compliance, prevent violations and discipline violators.

Interim Agreement on the West Bank and the Gaza Strip, September 1995:

Article II (2) provides that "both sides will ... act to ensure the immediate, efficient and effective handling of any incident involving a threat or act of terrorism, violence or incitement, whether committed by Palestinians or Israelis. To this end, they will cooperate in the exchange of information and coordinate policies and activities".

The article goes on to detail specific measures to be taken by both sides, including the prevention of incitement, and the apprehension and prosecution of perpetrators of terrorism.

Article III establishes an extensive mechanism for join security coordination and cooperation.

Annex I, Articles II and IV sets out specific obligations of the Palestinian police in the field of maintaining security, including combating terrorism and violence, confiscating illegal weapons and preventing incitement to violence and terrorism.

Annex IV, Article II(7) contains detailed provisions regarding the transfer of terrorist suspects between the two sides.

Note for the Record Attached to the Hebron Protocol, 1997:

The *Note for the Record* set out a list of specific Palestinian responsibilities including: fighting terrorism and preventing violence, strengthening security cooperation, preventing incitement and hostile propaganda, combat systematically and effectively terrorist organizations and infrastructure, apprehension and prosecution of terrorists, compliance with requests for the transfer of suspects and defendants, and confiscation of illegal firearms.

Wye River Memorandum, October 1998:

Paragraph II states the understanding of the two sides that "it is in their vital interests to combat terrorism and fight violence", that "there can be no pause in the work against terrorists and their structure", and that this fight "must be cooperative in that no effort can be fully effective without Israeli-Palestinian cooperation and the continuous exchange of information, concepts and actions."

The *Wye Memorandum* goes on to detail specific actions to be taken by the Palestinian side, including:

- Outlawing and combating terrorist organizations
- Making known its policy of zero tolerance for terror an violence against both sides
- Establishing and vigorously and continuously implementing a systematic program for confiscating and handling illegal weapons and ammunition
- Preventing incitement and acting systematically against all expressions or threats of violence or terror

Sharm el-Sheikh Memorandum, 1999:

Paragraph 8(a) reiterates the commitment of both sides to cooperate in the exchange of information and to coordinate policies and activities to combat terrorist activities.

Paragraph 8(b) sets out a renewed undertaking by the Palestinian side to implement its security obligations, including the collection of illegal weapons and apprehension of terrorist suspects.

In conclusion to this Section, Israel is a Party to bilateral and multilateral treaties with a large number of countries. Requests under such treaties which relate to terrorist crimes are given special attention and priority.

d. What are your government's intentions regarding signing and/or ratifying the conventions and protocols referred to in this sub-paragraph?

As will be detailed below, Israel is a Party to a significant number of conventions and protocols and has signed others. Regarding those treaties that Israel has not yet ratified, the Government is examining the possibility of such action and each document is being dealt with by relevant agencies examining the ramifications of these documents of Israeli domestic legislation. The events of 11 September 2001 and the approval of Resolution 1373 have led to a expiditing of this process.

Status of United Nations Treaties

1. United Nations Conventions deposited with the Secretary General of the United Nations

   i. *Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, Including Diplomatic Agents, 1973*
   Israel has been a Party to the Convention since July 31, 1980.

   ii. *International Convention Against the Taking of Hostages, 1979*
   Israel signed the Convention of 19 November 1980, while attaching the following declaration upon signature:

   > "1. It is the understanding of Israel that the Convention implements the principle that hostage taking is prohibited in all circumstances and that any person committing such an act shall be either prosecuted or extradited pursuant to Article 8 of this Convention or the relevant provisions of the *Geneva Conventions* of 1949 or their additional protocols, without any exception whatsoever.
   >
   > 2. The Government of Israel declares it reserves the right, when depositing the instrument of ratification, to make reservations and additional declaration and understandings."

   iii. *International Convention for the Suppression of Terrorist Bombings, 1997*
   Israel signed the Convention on 29 January 1999. It has not yet ratified it.

   iv. *International Convention for the Suppression of the Financing of Terrorism*, 1999
   Israel signed the Convention on July 11, 2000, but has not yet ratified it.

2. Conventions deposited with other depositaries

   i. *Convention on Offences and Certain Other Acts Committed on Board Aircraft*, 1963
   Israel has been Party to the Convention since 14 September 1969.

   ii. *Convention for the Suppression of Unlawful Seizure of Aircraft*, 1970
   Israel has been Party to the Convention since 16 August 1971.

   iii. *Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, 1971*
   Israel has been Party to the Convention since 30 June 1972.

iv. *Convention on the Physical Protection of Nuclear Material*, 1980
Israel has just ratified this Convention.

v. *Protocol on the Suppression of Unlawful Acts of Violence at Airports Serving International Aviation, supplementary to the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation of 1971*, 1988
Israel has been Party to the Protocol since 2 May 1993.

vi. *Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation*, 1988
Israel signed the Convention on 10 March 1988 but has not ratified it.

vii. *Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf*, 1988
Israel signed the Protocol on 10 March 1988 but has not ratified it.

viii. *Convention on the Marking of Plastic Explosives for the Purpose of Detection*, 1991
Israel signed the Convention on 1 March 1991. It has yet to ratify it.

e. Provide any relevant information on the implementation of the conventions, protocols and resolutions referred to in this sub-paragraph.

Israel has fully implemented the Security Council resolutions 1269 and 1368. This implementation is reflected, *inter alia*, in its report to the Sanctions Committee as well as in its response to the questionnaire of the United States concerning cooperation in implementation of *Executive Order* 13224.

f. What legislation, procedures and mechanisms are in place for ensuring asylum seekers have not been involved in terrorist activity before granting refugee status? Please supply examples of any relevant cases.

g. What procedures are in place to prevent the abuse of refugee status by terrorists? Please provide details of legislation and/or administrative procedures which prevent claims of political motivation being recognized as grounds for refusing requests for extradition of alleged terrorists. Please supply examples of any relevant cases.

The issue of asylum seekers has not been explicitly dealt with in Israeli law. The issue is subject to the discretion of the Minister of the Interior. However, Israel sees itself as bound to act in accordance with the *Geneva Convention on the Status of Refugees* of 1951, and with the *Protocol on the Status of Refugees* of 1967. Accordingly, a set of regulations has been prepared, in coordination with the UN High Commissioner on Refugees. The regulations are based on two fundamental principles: the advancement of human rights, and the protection of refugee status from being abused, including by those involved in terrorist activity. Israel is currently considering the feasibility of promoting legislation on this matter.

The regulations establish procedures for initial investigations and the forming and activity of an advisory committee. Specific procedures for application, appeals and receipt of refugee status are detailed in the regulations. Applications are dealt with on an individual case-by-case basis to prevent potential misuse of the procedure by those involved in illegal activity including terrorism. As part of the investigative process which follow such requests, background checks regarding the individual and the basis of the request are examined. Information regarding involvement in terrorist activities would certainly be grounds for denying such a request.
The State of Israel reserves the right, not to absorb into Israel, or grant a permit to enable the stay in Israel, of subjects of enemy or hostile states. The issue of the release of such persons on bail will be examined on a case-by-case basis, in accordance with the prevailing circumstances, and security considerations.

IV. UNSCR 1373 Operative Paragraph 4

Israel has consistently supported international efforts and advocated regional cooperation to prevent the flow of non-conventional weapons, material, technology and know-how – as well as the illicit trafficking of small arms – and attaches the utmost importance to these efforts both against terrorists and states which support terrorist activity.

Israel entirely supports the observation and concern of Operative Paragraph 4 of Security Council Resolution 1373 with respect to the "close connection between international terrorism and transnational organized crime, illicit drugs, money-laundering, illegal arms-trafficking." The structures and operations of international crimes often provide support for the activities of terrorists. Israel is confident that effective legislative mechanisms regarding extradition for international cooperation against transnational crime will lead to making the world a less comfortable environment for the purveyors of international terror.

These coordinated efforts should be directed at the illegal movement of conventional arms and non-conventional material to criminal and especially to terrorist elements and the activities of sovereign states. These efforts should challenge states which might violate internationally binding agreements in the sphere of non-conventional weapons, fail to take into account the possibility of the dual-use of such material, and those activities which support terrorists. Such states serve as "role models" for terrorists seeking to acquire and use weapons of mass destruction.

The best way to combat the flow of non-conventional material to terrorists is through strong national commitment and determination, supplemented by regional coordination and cooperative international efforts. Israel's legislation and regulations on arms sales reflect this policy, and export controls are strictly implemented which encompass negotiations, production, licensing, marking and registration. Israel is currently in the process of consolidating legislation governing the export of bio-chemical and nuclear materials.

In this context, Israel is pleased to inform the United Nations that it finalizing its ratification of the *Convention on the Physical Protection of Nuclear Material*. Israel views this process as an integral part of its wider efforts to block attempts by sovereign states and terrorists to threaten the international community with threats of use, distribution or sale of weapons of mass destruction.